

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Judiciary, to which was referred Senate Bill No. 153, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 12-17-2-18, AS AMENDED BY P.L.234-2005,
- 4 SECTION 31, IS AMENDED TO READ AS FOLLOWS
- 5 [EFFECTIVE JULY 1, 2006]: Sec. 18. (a) The bureau shall make the
- 6 agreements necessary for the effective administration of the plan with
- 7 local governmental officials within Indiana. The bureau shall contract
- 8 with:
- 9 (1) a prosecuting attorney;
- 10 (2) a private attorney **or private entity** if the bureau determines
- 11 that a reasonable contract cannot be entered into with a
- 12 prosecuting attorney and the determination is approved by at least
- 13 two-thirds (2/3) of the Indiana child custody and support advisory
- 14 committee (established by IC 33-24-11-1); or
- 15 (3) a collection agency licensed under IC 25-11 to collect
- 16 arrearages on child support orders under which collections have
- 17 not been made on arrearages for at least two (2) years;
- 18 in each judicial circuit to undertake activities required to be performed
- 19 under Title IV-D of the federal Social Security Act (42 U.S.C. 651),
- 20 including establishment of paternity, establishment, enforcement, and
- 21 modification of child support orders, activities under the Uniform
- 22 Reciprocal Enforcement of Support Act (IC 31-2-1, before its repeal)

or the Uniform Interstate Family Support Act (IC 31-18, or IC 31-1.5 before its repeal), and if the contract is with a prosecuting attorney, prosecutions of welfare fraud.

(b) The hiring of ~~an~~ **a private attorney or private entity** by an agreement or a contract made under this section is not subject to the approval of the attorney general under IC 4-6-5-3. An agreement or a contract made under this section is not subject to IC 4-13-2-14.3 or IC 5-22.

(c) Subject to section 18.5 of this chapter, a prosecuting attorney with which the bureau contracts under subsection (a):

- (1) may contract with a collection agency licensed under IC 25-11 to provide child support enforcement services; and
- (2) shall contract with a collection agency licensed under IC 25-11 to collect arrearages on child support orders under which collections have not been made on arrearages for at least two (2) years.

(d) A prosecuting attorney or private attorney entering into an agreement or a contract with the bureau under this section enters into an attorney-client relationship with the state to represent the interests of the state in the effective administration of the plan and not the interests of any other person. An attorney-client relationship is not created with any other person by reason of an agreement or contract with the bureau.

(e) At the time that an application for child support services is made, the applicant must be informed that:

- (1) an attorney who provides services for the child support bureau is the attorney for the state and is not providing legal representation to the applicant; and
- (2) communications made by the applicant to the attorney and the advice given by the attorney to the applicant are not confidential communications protected by the privilege provided under IC 34-46-3-1.

(f) A prosecuting attorney or private attorney who contracts or agrees under this section to undertake activities required to be performed under Title IV-D is not required to mediate, resolve, or litigate a dispute between the parties relating to the amount of parenting time or parenting time credit.

(g) An agreement made under subsection (a) must contain requirements stipulating service levels a prosecuting attorney or private entity is expected to meet. The bureau shall disburse:

- (1) incentive money; or**
- (2) federal reimbursement funds;**

1 **based on whether a prosecuting attorney or private entity meets**
 2 **service levels stipulated in an agreement made under subsection**
 3 **(a).".**

4 Page 3, between lines 13 and 14, begin a new paragraph and insert:

5 "SECTION 3. IC 12-17-2-26, AS AMENDED BY P.L.2-2005,
 6 SECTION 51, IS AMENDED TO READ AS FOLLOWS
 7 [EFFECTIVE JULY 1, 2006]: Sec. 26. (a) **Subject to subsection (d),**
 8 the Title IV-D agency shall provide incentive payments to counties for
 9 enforcing and collecting the support rights that have been assigned to
 10 the state. The incentive payments shall be made by the Title IV-D
 11 agency directly to the county and deposited in the county treasury for
 12 distribution on a quarterly basis and in ~~equal shares to~~ the following
 13 **manner:**

14 (1) **Twenty-two and two-tenths percent (22.2%) of the**
 15 **incentive payments shall be distributed to** the county general
 16 fund.

17 (2) **Thirty-three and four-tenths percent (33.4%) of the**
 18 **incentive payments shall be distributed to** the operating budget
 19 of the prosecuting attorney.

20 (3) **Twenty-two and two-tenths percent (22.2%) of the**
 21 **incentive payments shall be distributed to** the operating budget
 22 of the circuit court clerk.

23 (b) Notwithstanding IC 36-2-5-2(b), distribution from the county
 24 treasury under subsection (a) shall be made without the necessity of
 25 first obtaining an appropriation from the county fiscal body.

26 (c) The amount that a county receives and the terms under which the
 27 incentive payment is paid must be in accordance with relevant federal
 28 statutes and the federal regulations promulgated under the statutes.
 29 However, amounts received as incentive payments may not, without the
 30 approval of the county fiscal body, be used to increase or supplement
 31 the salary of an elected official. The amounts received as incentive
 32 payments must be used to supplement, rather than take the place of,
 33 other funds used for Title IV-D program activities.

34 **(d) The Title IV-D agency shall retain twenty-two and**
 35 **two-tenths percent (22.2%) of the incentive payments described in**
 36 **subsection (a).".**

37 Page 18, between lines 5 and 6, begin a new paragraph and insert:

38 **"(d) The state central collection unit may collect any unpaid fee**
 39 **through any lawful means, including income withholding.".**

40 Page 20, line 5, delete "twenty-six dollars (\$26)" and insert **"thirty**
 41 **dollars (\$30)".**

42 Page 20, line 5, delete "If an".

- 1 Page 20, delete lines 6 through 11.
- 2 Renumber all SECTIONS consecutively.
(Reference is to SB 153 as introduced.)

and when so amended that said bill do pass and be reassigned to the Senate Committee on Appropriations.

Committee Vote: Yeas 6, Nays 4.

Senator Bray, Chairperson